

## **DEPARTMENT OF PUBLIC SAFETY**

### **PROCEDURES FOR HEARINGS**

#### **Sec. 29-2-1. Applicability, definitions**

(a) These hearing procedures shall apply to all compliance meetings and contested cases held by the Department of Public Safety, except those hearings held under the provisions of other regulations of the Department of Public Safety.

(b) As used herein "agency" means the Department of Public Safety.

(c) As used herein, "certificate" includes the whole or part of any Department of Public Safety permit which the department issues under authority of the General Statutes and which (1) authorizes practice of the profession by certified persons, (2) prohibits a person from falsely representing that he is certified to practice the profession unless the person holds a certificate issued by the department and (3) requires as a condition of certification that a person submit specified credentials to the department which attest to qualifications to practice the profession.

(d) As used herein, "license" includes the whole or part of any Department of Public Safety permit, approval, or similar form of permission which the department issues under authority of the General Statutes and which requires; (1) practice of the profession by licensed persons only, (2) demonstration of competence to practice by examination or other means and meeting of certain minimum standards and (3) enforcement of standards by the department.

(e) As used herein, "registration" includes the whole or part of any permit which the department issues under authority of the General Statutes and which; (1) requires persons to place their names on a list maintained by the department before they can engage in the practice of a specified profession or occupation, (2) does not require a person to demonstrate competence by examination or other means and (3) may be revoked or suspended by the department for cause.

(f) As used herein, "practitioner" includes any person possessing a certificate, license, or registration which the department issues under authority of the General Statutes.

(Effective September 25, 1987.)

#### **Sec. 29-2-2. Opportunity to show compliance**

(a) No revocation or suspension of any certificate, license or registration is lawful unless prior to the institution of agency proceedings, the agency gave notice by mail to the practitioner of facts or conduct which warrant the intended action, and the practitioner was given the opportunity to show compliance with all lawful requirements for the retention of the certificate, license or registration.

(b) Notification of such compliance conference shall be by certified mail. Said notice shall contain:

(1) A statement of the time, date and place of the compliance conference;

(2) A reference to the statute(s) or regulation(s) allegedly violated;

(3) A clear and concise factual statement sufficient to inform each respondent of the acts or practices alleged to be in violation of the law; and

(4) A statement that each respondent may be represented by counsel.

(c) Compliance conferences shall be recorded but need not be transcribed and the strict rules of evidence are not applicable.

(d) The commissioner shall designate a person to preside at such compliance conference. After said compliance conference said designated presiding officer shall report in writing his recommendations to the commissioner.

(Effective September 25, 1987.)

**Sec. 29-2-3. Contested cases**

- (a) A contested case means a proceeding, including but not restricted to licensing, in which the legal rights, duties or privileges of a party are required by statute to be determined by the Department of Public Safety after an opportunity for hearing or in which a hearing in fact is held, but does not include hearings referred to in Section 4-168 of the Connecticut General Statutes.
- (b) When the department has reason to believe there has been a violation of the statute(s) or regulation(s) administered by the department, it shall issue a complaint by certified mail to the respondent.
- (c) The notice in contested cases shall contain:
- (1) A statement of the statutory authority and jurisdiction for instituting the proceedings;
  - (2) A reference to the specific statutory sections(s) or regulations alleged to be violated;
  - (3) A short and plain statement of the matters asserted sufficient to inform each respondent of the acts or practices alleged to be in violation of the law;
  - (4) The time, date, place and nature of the hearing; and
  - (5) A statement that each respondent may, if he desires, be represented by an attorney.
- (d) Notice of any matter will be sent by regular or certified mail to the respondent, or if represented by counsel, to such counsel.
- (e) If a respondent can reasonably show a need for additional time to prepare a defense to the alleged statutory violation, an extension of time may be granted by moving the scheduled hearing to a later date. The granting of such a request is within the complete discretion of the commissioner or his designee.
- (f) If a respondent can reasonably show that the complaint is unclear or ambiguous as to the nature of the acts in violation of the law, he may file with the department a written motion for a more detailed statement of the nature of the charges against him. The granting or denial of such a motion is within the complete discretion of the commissioner or his designee.
- (g) Appearances, admissions and denials, answers, motions and any other pleading which a respondent wishes considered by the commissioner or his designee prior to the convening of a contested case proceeding may be filed up to seven days prior to the hearing date. Failure to file any pleadings by any party will not prevent the department from proceeding with the matter. However, if a respondent can reasonably show a need for additional time to submit documentation an extension of time may be granted. The granting of such request is within the complete discretion of the commissioner or his designee. (Effective September 25, 1987.)

**Sec. 29-2-4. Pre-hearing procedure in contested cases**

- (a) Any time after the issuance of a complaint and before the scheduled hearing date, the commissioner may order or a respondent may request an informal pre-hearing conference. The granting or denial, or a request for pre-hearing conference is within the complete discretion of the commissioner or his designee.
- (b) A pre-hearing conference may be held for any of the following purposes:
- (1) to narrow the scope of the issues in dispute;
  - (2) to obtain stipulations as to matters of fact;
  - (3) to stipulate as to the authenticity of documents which are to be offered in evidence;
  - (4) to stipulate as to the qualification of any expert witnesses who are to testify at the hearing; and
  - (5) to discuss the possibility of an informal disposition of the complaint.
- (c) A pre-hearing conference need not be recorded, but a written record will be made of any stipulations as to matters of fact, as to the authenticity of documents, or as to the qualification of expert witnesses. Any such written record will be signed by each of the individual respondents or his counsel and by the commissioner or his authorized representative. (Effective September 25, 1987.)

**Sec. 29-2-5. Conduct of adjudicative hearings in contested cases**

- (a) Hearings in contested cases shall be presided over by the commissioner or his designated hearing officer.
- (b) Said commissioner or hearing officer shall have the power to:
- (1) Regulate the course of the hearing and the conduct of the parties and their counsel therein;

- (2) Insure that all testimony is given under oath;
  - (3) Rule upon offers of proof and receive evidence;
  - (4) Consider and rule upon all motions; and
  - (5) Require any additional written and/or oral argument.
  - (c) Each party in an adjudicative hearing shall have the right to present evidence, cross examine witnesses, enter motions and objections and assert all other rights essential to a fair hearing.
  - (d) Intervention by interested parties shall be permitted in any contested case, as provided by applicable statute or otherwise within the discretion of the commissioner or hearing officer.
  - (e) All adjudicative hearings in contested cases shall be recorded and shall be conducted in accordance with the provisions of chapter 54 of the General Statutes.
- (Effective September 25, 1987.)

#### **Sec. 29-2-6. Transcript of the proceedings**

- (a) At the close of the reception of evidence, the respondent or any other party of record may file a written request addressed to the agency for a written transcript of the proceedings. If no such written request is filed, the department may order that a written transcript be prepared.
  - (b) If any party of record desires a copy of the transcript, it will be made available to him upon written request and the tendering of the appropriate cost.
- (Effective September 25, 1987.)

#### **Sec. 29-2-7. Informal disposition in contested cases**

- (a) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default. A respondent may agree to enter an agreement containing a consent order in lieu of a hearing on the issue(s). Such agreement may be negotiated by the respondent or his counsel and the authorized representative of the department. The acceptance of a consent agreement is within the complete discretion of the commissioner or his designee.
  - (b) A consent agreement shall contain:
    - (1) An admission of all jurisdictional facts;
    - (2) An express waiver of the right to seek judicial review or otherwise challenge or contest the validity of the order;
    - (3) An express waiver of the requirement that the decision of said commissioner or hearing officer contain findings of fact and conclusions of law;
    - (4) A provision that the complaint may be used in construing the terms of the order;
    - (5) A statement that the order contained therein shall have the same force and effect as an order entered after a full hearing and shall become final when issued;
    - (6) A statement that said order shall not be effective unless and until accepted and approved by the commissioner or his designee;
    - (7) The signature of each respondent or his attorney; and
    - (8) The signature of the commissioner or his designee accepting and approving the consent agreement.
- (Effective September 25, 1987.)

#### **Sec. 29-2-8. Proposal for decision**

When in a contested case a majority of the officials of the agency who are to render the final decision have not heard the case or read the record, the decision if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposal for decision is served upon the parties and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the officials who are to render the decision. The proposal for decision shall contain a statement of the reasons therefore, and of each issue of fact or law necessary to the proposed decision, prepared by the person who conducted the hearing or one who has read the record. The parties by written stipulation may waive compliance with this section.

(Effective September 25, 1987.)

**Sec. 29-2-9. Final decision in a contested case**

(a) The final decision or order in a contested case shall be rendered by the commissioner or his designee after due consideration of the entire record.

(b) A final decision or order adverse to a party in a contested case shall be in writing or stated in the record.

(c) Parties shall be notified either personally or by mail of any decision or order. Upon request, a copy of the text of the final decision or order shall be sent by mail to each of the respondents and respondent's counsel, and to any other party of record.

(d) The department shall proceed with reasonable dispatch to conclude any matter pending before it and shall render a final decision in all contested cases within ninety days following the close of evidence and filing of briefs, in such proceedings.

(Effective September 25, 1987.)

**Sec. 29-2-10. Summary suspension procedures**

If the department finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a certificate, license or registration may be ordered pending proceeding for revocation or other action. These proceedings shall be instituted within thirty days of the summary suspension.

(Effective August 4, 1988.)

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